IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 474 OF 2007.

Smt.Jyoti Vinod Shah. ... Appellant.

Versus.

The Municipal Corporation of Greater Bombay,. ... Respondent.

Shri Kuldeep S.Patil for the Appellant.

Smt.Geeta Joglekar for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 21st June, 2007.

P.C.:

1. Heard the Advocates appearing for the Appellant and the Respondent. My attention has been invited to the letter dated 7th June 2007 sent by the Assistant Engineer (Maintenance) K/East Ward of the Respondent-Corporation to the Appellant. The said letter reads thus:

> "By direction of Dy.Municipal Commissioner (Zone-III), it is to inform you that, your structure affected in road widening is included for PAP. Necessary proposal is already forwarded by this office to Assistant Commissioner (Market) for alternate accommodation. You are, therefore, directed to remove the affected portion in road widening, within 24 hours from receipt of this letter, failing which, demolition action will

be taken by this office, may please be noted."

The learned Advocate for the Respondent on instructions from the Respondent states that in principle the Appellant has been held eligible for allotment of alternate commercial premises. She states that the completion of procedural formalities for actual allotment will take time of about 45 days. The statement made by the Advocate for the Respondent is accepted.

2. The learned Advocate for the Appellant states that time of two weeks be granted to the Appellant to remove the structure which is affected by road widening. Since the Appellant himself has offered to remove the structure, time of two weeks deserves to be granted.

3. Hence the Appeal from Order is disposed by the following order:

(i) The statements made by the learned Advocate for the Respondent on the instructions of the concerned officer of the Respondent, which are recorded in this order, are accepted.

(ii) In view of the said statement, the

Appellant is granted time of two weeks to remove the offending structure.

(iii) For a period of two weeks from today, the Respondent-Corporation will not take any action against the offending structure. If the Appellant fails to remove the offending structure within two weeks from today, it will be open for the Respondent-Corporation to proceed with the action of demolition.

(iv) In view of this order even the pending Notice of Motion does not survive and is disposed of.

(v) The Appeal is disposed of in the above terms.

Judge.